

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 SOUTHERN DIVISION

11 JEFF BLOOM, an individual and DEVON
12 BLOOM, an individual,

13 Plaintiffs,

14 v.

15 STATE FARM GENERAL INSURANCE
16 COMPANY, an Illinois corporation; and
17 DOES 1 TO 25, inclusive.

Defendants.

Case No. 8:23-cv-00442-JWH-JDE

**STIPULATED PROTECTIVE
ORDER**

18 Based on the Stipulation (Dkt. 27) between Plaintiffs Jeff and Devon Bloom
19 (“Plaintiffs”) and Defendant State Farm General Insurance Company (“State Farm”)
20 (collectively referred to herein as “Parties”) and good cause appearing, the Court
21 finds and orders as follows.

22 1. PURPOSES AND LIMITATIONS

23 Discovery in this action is likely to involve production of confidential,
24 proprietary or private information for which special protection from public
25 disclosure and from use for any purpose other than pursuing this litigation may be
26 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter
27 the following Stipulated Protective Order. The parties acknowledge that this Order
28 does not confer blanket protections on all disclosures or responses to discovery and

1 that the protection it affords from public disclosure and use extends only to the
2 limited information or items that are entitled to confidential treatment under the
3 applicable legal principles.

4 2. GOOD CAUSE STATEMENT

5 This action is likely to involve trade secrets customer and pricing lists and other
6 valuable research, development, commercial, financial, technical and/or proprietary
7 information for which special protection from public disclosure and from use for any
8 purpose other than prosecution of this action is warranted. Such confidential and
9 proprietary materials and information consist of, among other things, confidential
10 business or financial information, information regarding confidential business
11 practices, or other confidential research, development, or commercial information
12 (including information implicating privacy rights of third parties), information
13 otherwise generally unavailable to the public, or which may be privileged or otherwise
14 protected from disclosure under state or federal statutes, court rules, case decisions, or
15 common law. Accordingly, to expedite the flow of information, to facilitate the prompt
16 resolution of disputes over confidentiality of discovery materials, to adequately protect
17 information the parties are entitled to keep confidential, to ensure that the parties are
18 permitted reasonable necessary uses of such material in preparation for and in the
19 conduct of trial, to address their handling at the end of the litigation, and serve the ends
20 of justice, a protective order for such information is justified in this matter. It is the
21 intent of the parties that information will not be designated as confidential for tactical
22 reasons and that nothing be so designated without a good faith belief that it has been
23 maintained in a confidential, non-public manner, and there is good cause why it should
24 not be part of the public record of this case.

25 3. ACKNOWLEDGMENT OF UNDER SEAL FILING PROCEDURE

26 The parties further acknowledge, as set forth in Section 14.3, below, that this
27 Stipulated Protective Order does not entitle them to file confidential information under
28 seal; Local Civil Rule 79-5 sets forth the procedures that must be followed and the

standards that will be applied when a party seeks permission from the court to file material under seal. There is a strong presumption that the public has a right of access to judicial proceedings and records in civil cases. In connection with non-dispositive motions, good cause must be shown to support a filing under seal. See Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006), Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-Welbon v. Sony Electrics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders require good cause showing), and a specific showing of good cause or compelling reasons with proper evidentiary support and legal justification, must be made with respect to Protected Material that a party seeks to file under seal. The parties' mere designation of Disclosure or Discovery Material as CONFIDENTIAL does not—without the submission of competent evidence by declaration, establishing that the material sought to be filed under seal qualifies as confidential, privileged, or otherwise protectable—constitute good cause.

Further, if a party requests sealing related to a dispositive motion or trial, then compelling reasons, not only good cause, for the sealing must be shown, and the relief sought shall be narrowly tailored to serve the specific interest to be protected. See Pintos v. Pacific Creditors Ass'n., 605 F.3d 665, 677-79 (9th Cir. 2010). For each item or type of information, document, or thing sought to be filed or introduced under seal, the party seeking protection must articulate compelling reasons, supported by specific facts and legal justification, for the requested sealing order. Again, competent evidence supporting the application to file documents under seal must be provided by declaration.

Any document that is not confidential, privileged, or otherwise protectable in its entirety will not be filed under seal if the confidential portions can be redacted. If documents can be redacted, then a redacted version for public viewing, omitting only the confidential, privileged, or otherwise protectable portions of the document, shall be filed. Any application that seeks to file documents under seal in their entirety should

1 include an explanation of why redaction is not feasible.

2 4. DEFINITIONS

3 4.1 Action: This pending federal lawsuit.

4 4.2 Challenging Party: a Party or Non-Party that challenges the
5 designation of information or items under this Order.

6 4.3 “CONFIDENTIAL” Information or Items: information (regardless of
7 how it is generated, stored or maintained) or tangible things that qualify for protection
8 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
9 Statement.

10 4.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
11 support staff).

12 4.5 Designating Party: a Party or Non-Party that designates information or
13 items that it produces in disclosures or in responses to discovery as
14 “CONFIDENTIAL.”

15 4.6 Disclosure or Discovery Material: all items or information, regardless of
16 the medium or manner in which it is generated, stored, or maintained (including,
17 among other things, testimony, transcripts, and tangible things), that are produced or
18 generated in disclosures or responses to discovery.

19 4.7 Expert: a person with specialized knowledge or experience in a matter
20 pertinent to the litigation who has been retained by a Party or its counsel to serve as
21 an expert witness or as a consultant in this Action.

22 4.8 House Counsel: attorneys who are employees of a party to this Action.
23 House Counsel does not include Outside Counsel of Record or any other outside
24 counsel.

25 4.9 Non-Party: any natural person, partnership, corporation, association or
26 other legal entity not named as a Party to this action.

27 4.10 Outside Counsel of Record: attorneys who are not employees of a party
28 to this Action but are retained to represent a party to this Action and have appeared in

1 this Action on behalf of that party or are affiliated with a law firm that has appeared
2 on behalf of that party, and includes support staff.

3 4.11 Party: any party to this Action, including all of its officers, directors,
4 employees, consultants, retained experts, and Outside Counsel of Record (and their
5 support staffs).

6 4.12 Producing Party: a Party or Non-Party that produces Disclosure or
7 Discovery Material in this Action.

8 4.13 Professional Vendors: persons or entities that provide litigation support
9 services (e.g., photocopying, videotaping, translating, preparing exhibits or
10 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
11 their employees and subcontractors.

12 4.14 Protected Material: any Disclosure or Discovery Material that is
13 designated as “CONFIDENTIAL.”

14 4.15 Receiving Party: a Party that receives Disclosure or Discovery
15 Material from a Producing Party.

16 5. SCOPE

17 The protections conferred by this Stipulation and Order cover not only Protected
18 Material (as defined above), but also (1) any information copied or extracted from
19 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
20 Material; and (3) any testimony, conversations, or presentations by Parties or their
21 Counsel that might reveal Protected Material.

22 Any use of Protected Material at trial shall be governed by the orders of the trial
23 judge. This Order does not govern the use of Protected Material at trial.

24 6. DURATION

25 Once a case proceeds to trial, information that was designated as
26 CONFIDENTIAL or maintained pursuant to this protective order used or introduced
27 as an exhibit at trial becomes public and will be presumptively available to all
28 members of the public, including the press, unless compelling reasons supported by

specific factual findings to proceed otherwise are made to the trial judge in advance of the trial. See Kamakana, 447 F.3d at 1180-81 (distinguishing “good cause” showing for sealing documents produced in discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

7. DESIGNATING PROTECTED MATERIAL

7.1 Exercise of Restraint and Care in Designating Material for

Protection. Each Party or Non-Party that designates information or items

for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items or oral or written communications that qualify so that other portions of the material, documents, items or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party’s attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

7.2 Manner and Timing of Designations. Except as otherwise provided in this Order, (see e.g., second paragraph of 7.2(a) below) or as otherwise stipulated or ordered, Disclosure of Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic

documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that contains protected material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

A Party or Non-Party that makes original documents available for inspection need not designate them for protection until after the inspecting Party has indicated which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identifies the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the

1 Designating Party's right to secure protection under this Order for such material. Upon
 2 timely correction of a designation, the Receiving Party must make reasonable efforts
 3 to assure that the material is treated in accordance with the provisions of this Order.

4 8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 8.1. Timing of Challenges. Any Party or Non-Party may challenge a
 6 designation of confidentiality at any time that is consistent with the Court's Scheduling
 7 Order.

8 8.2 Meet and Confer. The Challenging Party shall initiate the dispute
 9 resolution process under Local Rule 37-1 et seq.

10 8.3 Joint Stipulation. Any challenge submitted to the Court shall be via a joint
 11 stipulation pursuant to Local Rule 37-2.

12 8.4 The burden of persuasion in any such challenge proceeding shall be on
 13 the Designating Party. Frivolous challenges, and those made for an improper purpose
 14 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
 15 expose the Challenging Party to sanctions. Unless the Designating Party has waived
 16 or withdrawn the confidentiality designation, all parties shall continue to afford the
 17 material in question the level of protection to which it is entitled under the Producing
 18 Party's designation until the Court rules on the challenge.

19 9. ACCESS TO AND USE OF PROTECTED MATERIAL

20 9.1 Basic Principles. A Receiving Party may use Protected Material that is
 21 disclosed or produced by another Party or by a Non-Party in connection with this
 22 Action only for prosecuting, defending or attempting to settle this Action. Such
 23 Protected Material may be disclosed only to the categories of persons and under the
 24 conditions described in this Order. When the Action has been terminated, a Receiving
 25 Party must comply with the provisions of section 15 below (FINAL DISPOSITION).

26 Protected Material must be stored and maintained by a Receiving Party at a
 27 location and in a secure manner that ensures that access is limited to the persons
 28 authorized under this Order.

1 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated

4 “CONFIDENTIAL” only to:

5 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
6 well as employees of said Outside Counsel of Record to whom it is reasonably
7 necessary to disclose the information for this Action;

8 (b) the officers, directors, and employees (including House Counsel) of
9 the Receiving Party to whom disclosure is reasonably necessary for this Action;

10 (c) Experts (as defined in this Order) of the Receiving Party to whom
11 disclosure is reasonably necessary for this Action and who have signed the
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (d) the court and its personnel;

14 (e) court reporters and their staff;

15 (f) professional jury or trial consultants, mock jurors, and Professional
16 Vendors to whom disclosure is reasonably necessary for this Action and who have
17 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (g) the author or recipient of a document containing the information or a
19 custodian or other person who otherwise possessed or knew the information;

20 (h) during their depositions, witnesses, and attorneys for witnesses, in the
21 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
22 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will
23 not be permitted to keep any confidential information unless they sign the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
25 by the Designating Party or ordered by the court. Pages of transcribed deposition
26 testimony or exhibits to depositions that reveal Protected Material may be separately
27 bound by the court reporter and may not be disclosed to anyone except as permitted
28 under this Stipulated Protective Order; and

(i) any mediators or settlement officers and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected. If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information

1 produced by Non-Parties in connection with this litigation is protected by the remedies
2 and relief provided by this Order. Nothing in these provisions should be construed as
3 prohibiting a Non-Party from seeking additional protections.

4 (b) In the event that a Party is required, by a valid discovery request, to
5 produce a Non-Party's confidential information in its possession, and the Party is
6 subject to an agreement with the Non-Party not to produce the Non-Party's
7 confidential information, then the Party shall:

8 (1) promptly notify in writing the Requesting Party and the Non-Party
9 that some or all of the information requested is subject to a confidentiality agreement
10 with a Non-Party;

11 (2) promptly provide the Non-Party with a copy of the Stipulated
12 Protective Order in this Action, the relevant discovery request(s), and a reasonably
13 specific description of the information requested; and

14 (3) make the information requested available for inspection by the Non-
15 Party, if requested.

16 (c) If the Non-Party fails to seek a protective order from this court within
17 14 days of receiving the notice and accompanying information, the Receiving Party
18 may produce the Non-Party's confidential information responsive to the discovery
19 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not
20 produce any information in its possession or control that is subject to the
21 confidentiality agreement with the Non-Party before a determination by the court.
22 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
23 of seeking protection in this court of its Protected Material.

24 12. UNAUTHORIZED DISCLOSURE OF PROTECTED
25 MATERIAL

26 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
27 Protected Material to any person or in any circumstance not authorized under this
28 Stipulated Protective Order, the Receiving Party must immediately (a) notify in

1 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
 2 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
 3 persons to whom unauthorized disclosures were made of all the terms of this Order,
 4 and (d) request such person or persons to execute the “Acknowledgment an Agreement
 5 to Be Bound” attached hereto as Exhibit A.

6 13. INADVERTENT PRODUCTION OF PRIVILEGED OR
 7 OTHERWISE PROTECTED MATERIAL

8 When a Producing Party gives notice to Receiving Parties that certain inadvertently
 9 produced material is subject to a claim of privilege or other protection, the
 10 obligations of the Receiving Parties are those set forth in Federal Rule of Civil
 11 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
 12 may be established in an e-discovery order that provides for production without prior
 13 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
 14 parties reach an agreement on the effect of disclosure of a communication or
 15 information covered by the attorney-client privilege or work product protection, the
 16 parties may incorporate their agreement in the stipulated protective order submitted
 17 to the court.

18 14. MISCELLANEOUS

19 14.1 Right to Further Relief. Nothing in this Order abridges the right of any
 20 person to seek its modification by the Court in the future.

21 14.2 Right to Assert Other Objections. By stipulating to the entry of this
 22 Protective Order, no Party waives any right it otherwise would have to object to
 23 disclosing or producing any information or item on any ground not addressed in this
 24 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 25 ground to use in evidence of any of the material covered by this Protective Order.

26 14.3 Filing Protected Material. A Party that seeks to file under seal any
 27 Protected Material must comply with Local Civil Rule 79-5. Protected Material may
 28 only be filed under seal pursuant to a court order authorizing the sealing of the

1 specific Protected Material. If a Party's request to file Protected Material under seal
2 is denied by the court, then the Receiving Party may file the information in the
3 public record unless otherwise instructed by the court.

4 15. FINAL DISPOSITION

5 A. After the final disposition of this Action, as defined in paragraph 6,
6 within 60 days of a written request by the Designating Party, each Receiving Party
7 must return all Protected Material to the Producing Party or destroy such material.
8 As used in this subdivision, "all Protected Material" includes all copies, abstracts,
9 compilations, summaries, and any other format reproducing or capturing any of the
10 Protected Material. Whether the Protected Material is returned or destroyed, the
11 Receiving Party must submit a written certification to the Producing Party (and, if
12 not the same person or entity, to the Designating Party) by the 60-day deadline that
13 (1) identifies (by category, where appropriate) all the Protected Material that was
14 returned or destroyed and (2) affirms that the Receiving Party has not retained any
15 copies, abstracts, compilations, summaries or any other format reproducing or
16 capturing any of the Protected Material. Notwithstanding this provision, Counsel are
17 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
18 and hearing transcripts, legal memoranda, correspondence, deposition and trial
19 exhibits, expert reports, attorney work product, and consultant and expert work
20 product, even if such materials contain Protected Material. Any such archival copies
21 that contain or constitute Protected Material remain subject to this Protective Order
22 as set forth in Section 6 (DURATION).

23 B. Nothing in this Order disallows State Farm from:

24 a. complying with any state or federal law or regulation, including
25 reporting of information to a regulatory or government entity as permitted and/or
26 required by applicable state and federal law;

27 b. adding information discovered that is relevant to a claim to the
28 relevant electronic record in its electronic claim system;

1 c. disclosing evidence of a crime or fraud; retaining information
2 necessary to meet mandated retention requirements; or,

3 d. retaining copies of Protected Material that may exist on back-up
4 media or other computer or archive storage not regularly accessed by business users
5 in the ordinary course provided that should a copy of the Confidential Information be
6 accessed it will not be used for a purpose inconsistent with this Order.

7 16. VIOLATION

8 Any violation of this Order may be punished by appropriate measures
9 including, without limitation, contempt proceedings and/or monetary sanctions.

10
11 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

12
13 DATED: September 07, 2023

14
15 
16 JOHN D. EARLY
17 United States Magistrate Judge
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A**Acknowledgment and Agreement to Be Bound**

I, _____ (PRINT OR TYPE FULL NAME), of _____
[print or type full address] declare under penalty of perjury that I have read in its entirety, understand and am fully familiar with the terms of the Stipulated Protective Order entered on September 7, 2023,, United States District Court, Central District of California, Case No. 8:23-cv-00442-JWH-JDE, and agree to comply with and be bound by the terms and conditions of said Order unless and until modified by further Order of this Court.

I understand that Confidential Information, as defined in the Stipulated Protective Order, including any notes or other records that may be made regarding any such materials, shall not be disclosed to anyone except as expressly permitted by this Stipulated Protective Order. I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Order to any person or entity except in strict compliance with the provisions of this Order. I will not copy or use, except solely for the purposes of this Proceeding, any Confidential Information obtained pursuant to this Stipulated Protective Order, except as provided therein or otherwise ordered by the Court in the proceeding.

I further understand that I am to retain all copies of all Confidential Information and/or Trade Secret Information provided to me in the proceeding in a secure manner, and that all copies of such Confidential Information and/or Trade Secret Information are to remain in my personal custody until termination of my participation in this proceeding, whereupon the copies of such Confidential Information and/or Trade Secret Information will be returned to counsel who

1 provided me with such Confidential Information and/or Trade Secret
2 Information.

3 I further consent to the jurisdiction of this Court for purposes of enforcing
4 this Order, even if such enforcement proceedings occur after termination of this
5 action. I hereby appoint _____ [print or type full name] of ____
6 _____ [print or type full address and
7 telephone number] as my California agent for service of process in connection
8 with this action or any proceedings related to enforcement of this Order.
9

10 Executed this _____ day of _____, 20__, at _____,
11 _____.

12 Dated: _____

By: _____

13 Signature: _____

14 Title: _____

15 Address: _____

16 City, State, Zip _____
17
18
19
20
21
22
23
24
25
26
27
28